

1 RENE L. VALLADARES  
Federal Public Defender  
2 Nevada State Bar No. 11479  
JACQUELYN N. WITT  
3 Assistant Federal Public Defender  
Nevada State Bar No. 13877  
4 411 E. Bonneville, Ste. 250  
Las Vegas, Nevada 89101  
5 (702) 388-6577  
Jackie\_Witt@fd.org  
6

7 Attorney for Emilio Jose Velasco-Malvaez

8 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 EMILIO JOSE VELASCO-MALVAEZ,

13 aka "Carlos Guillermo Rodriguez Velasco,"  
14 aka "Emilio Valasco,"

15 Defendant.

Case No. 2:23-mj-01061-DJA

**ORDER to Extend  
Deadlines to Conduct  
Preliminary Hearing and File  
Indictment (Second Request)**

16  
17 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.  
18 Frierson, United States Attorney, and Justin Washburne, Assistant United States  
19 Attorney, counsel for the United States of America, and Jacquelyn N. Witt, Assistant  
20 Federal Public Defender, counsel for Defendant Emilio Jose Velasco-Malvaez that  
21 the Court schedule the preliminary hearing in this case for no earlier than 60 days  
22 from the date of the filing of this stipulation. This request requires that the Court  
23 extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of  
24 a detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an

1 information or indictment be filed within 30 days of a defendant's arrest, *see* 18  
2 U.S.C. § 3161(b).

3 This stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition  
5 program for immigration cases, authorized by the Attorney General pursuant to the  
6 PROTECT ACT of 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1)  
8 reduce the number of hearings required in order to dispose of a criminal case; (2)  
9 avoid having more cases added to the court's trial calendar, while still discharging  
10 the government's duty to prosecute federal crimes; (3) reduce the amount of time  
11 between complaint and sentencing; and (4) avoid adding significant time to the  
12 grand jury calendar to seek indictments in immigration cases, which in turn reduces  
13 court costs.

14 3. The government has made a plea offer in this case that requires  
15 defendant to waive specific rights and hearings in exchange for "fast-track"  
16 downward departure under USSG § 5K3.1. This offer will be withdrawn if it is not  
17 timely accepted before this matter is indicted and before a preliminary hearing is  
18 held.

19 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold  
20 the preliminary hearing within a reasonable time, but no later than 14 days after  
21 the initial appearance if the defendant is in custody . . . ."

22 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon  
23 a showing of good cause—taking into account the public interest in the prompt  
24

1 disposition of criminal cases—a magistrate judge may extend the time limits in Rule  
2 5.1(c) one or more times . . . .”

3         6.       Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny  
4 information or indictment charging an individual with the commission of an offense  
5 shall be filed within thirty days from the date on which such individual was arrested  
6 or served with a summons in connection with such charges.”

7         7.       Defendant has entered into a “fast-track” disposition and the plea and  
8 sentencing hearing is scheduled on April 1, 2024, before Judge Cristina D. Silva.  
9 After final disposition the preliminary hearing will be vacated.

10        8.       Accordingly, the parties jointly request that the Court schedule the  
11 preliminary hearing in this case no sooner than 60 days from today’s date.

12        9.       Defendant is in custody and agrees to the extension of the 14-day  
13 deadline imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c)  
14 or 18 U.S.C. § 3161(b), provided that the information or indictment is filed on or  
15 before the date ordered pursuant to this stipulation.

16        10.      The parties agree to the extension of that deadline.

17        11.      This extension supports the public interest in the prompt disposition of  
18 criminal cases by permitting defendant to consider entering into a plea agreement  
19 under the United States Attorney’s Office’s fast-track program for § 1326  
20 defendants.  
21

22        12.      Accordingly, the additional time requested by this stipulation is  
23 allowed under Federal Rule of Criminal Procedure 5.1(d).  
24



1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 EMILIO JOSE VELASCO-MALVAEZ,

7 aka "Carlos Guillermo Rodriguez-Velasco,"  
8 aka "Emilio Valasco,"

9 Defendant.

Case No. 2:23-mj-01061-DJA

**[Proposed] Order on  
Stipulation to Extend  
Deadlines to Conduct  
Preliminary Hearing and File  
Indictment**

11 Based on the stipulation of counsel, good cause appearing, and the best  
12 interest of justice being served; the time requested by this stipulation being  
13 excludable in computing the time within which the defendant must be indicted and  
14 the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §  
15 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the  
16 factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):  
17

18 IT IS THEREFORE ORDERED that the preliminary hearing currently  
19 scheduled on March 4, 2024 at the hour of 4:00 p.m., be vacated and continued to  
20 May 6, 2024, at 4:00 p.m., Courtroom 3A.

21 DATED this 1st day of March, 2024.



22  
23 DANIEL J. ALBREGTS  
24 United States Magistrate Judge